International Covenant on Civil and Political Rights

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Human Rights Committee

Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 2612/2015*, **

Communication submitted by:	A.S.G.M. (represented by counsel, Søren Rafn, of Copenhagen Refugee Community)
Alleged victim:	The author
State party:	Denmark
Date of communication:	13 May 2015 (initial submission)
Document references:	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 20 May 2015 (not issued in document form)
Date of adoption of Views:	9 November 2017
Subject matter:	Deportation from Denmark to Egypt
Procedural issues:	Failure to sufficiently substantiate allegations
Substantive issues:	Risk of torture or cruel, inhuman or degrading treatment
Article(s) of the Covenant:	7
Article(s) of the Optional Protocol:	2

1.1 The author of the communication is A.S.G.M., an Egyptian national born on 3 August 1986. The author claims that by forcibly deporting him to Egypt, Denmark would violate its obligations under article 7 of the Covenant. The Optional Protocol entered into force for Denmark on 23 March 1976. The author is represented by counsel.

1.2 On 20 May 2015, pursuant to rule 92 of its rules of procedure, the Committee, acting through its Special Rapporteur on new communications and interim measures, requested the State party not to deport the author to Egypt while his case was under consideration by the Committee. On 11 June 2015, the Refugee Appeals Board of Denmark suspended the author's deportation from the State party until further notice, in compliance with the Committee's request.

* Adopted by the Committee at its 121st session (16 October-10 November 2017).

** The following members of the Committee participated in the examination of the communication: Yadh Ben Achour, Ilze Brands Kehris, Sarah Cleveland, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Marcia V.J. Kran, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Anja Seibert-Fohr, Yuval Shany and Margo Waterval.

The facts as submitted by the author

2.1 The author is of Arab ethnicity and of the Muslim faith. He used to live in Egypt. He alleges that, in July 2005, he submitted all the relevant documents to do his military service at the military conscription office in Al-Giza, Egypt. He was supposed to start his military service at the end of August 2005; however, he failed to show up. Instead, he took several small jobs in Cairo.

2.2 In 2007, police officers detained him near the train station in Al-Fayyum. As he could not demonstrate that he had carried out his military service, he was taken to a police station and told to wait for an officer. After two hours, he asked permission to leave since he had to pick up his sister who was doing an exam in the area. The police took his fingerprints and released him. He was told that he should expect to be picked up at his home, but no one came in the following days. He went back to Cairo to work.

2.3 In June 2008, the author left Egypt from the airport so as to avoid military service. He claims that although he used his passport and had an exit permit, his departure was illegal, as people were not supposed to leave the country if they had not performed military service. He travelled to Libya and Italy, where he was arrested and deported back to Egypt in July 2008, together with other Egyptian migrants. On his arrival at Cairo airport, he was detained for five to six days by the police. During his detention, he was taken to different police stations, interrogated about his illegal departure and reminded that he had not performed military service. The author was finally released at the airport and told to register at the place where he had submitted the documents to do his military service. He went back to his home in Al-Fayyum and stayed there for a week. Then he moved to Cairo, where he spent 14 days before departing illegally from Egypt and travelling to Libya and Italy again. His parents and siblings stayed in Egypt and currently live there.

2.4 The author stayed in Italy until late December 2010 when he left to Denmark. On 28 December 2010, he applied for asylum to the Danish Immigration Service, using a false name — F.B.A — and giving false grounds for requesting asylum.[1] He alleges that he provided false information due to "fear" and "bad advice". On 18 July 2011, the Danish Immigration Service found his application manifestly unfounded and without the right to appeal to the Refugee Appeals Board.

2.5 The author then went back to Italy. After losing his passport, the author contacted the Egyptian embassy in Rome and he received a new passport in 2012, valid for one year. He had to leave a copy of his old passport (which was still valid) at the embassy. In the new passport, "Conscript situation. Draft age" was written by the embassy. In September 2013, the author moved to Switzerland, where he applied for asylum on 19 September 2013. However, the Swiss authorities transferred him back to Denmark in accordance with the Dublin Regulations.

2.6 On 17 October 2013, the author entered Denmark again. He informed the police of his real identity, as indicated in his passport, and submitted an application for asylum. He alleged that he feared being arrested upon return to Egypt; convicted to several years of imprisonment since he left the country illegally twice, without performing military service; and that he had been subjected to inhuman and degrading treatment while in prison in Egypt. He also claimed that he feared persecution by the authorities because he supported former President Mohammed Mursi and the Muslim Brotherhood. The author stated that he did not want to do military service because the military was not fair to draftees and humiliated them and also because the military treated the population unfairly, in particular poor people. He stated that there was no justice in Egypt since courts always ruled in favour of State agents.

2.7 During his interviews with the Danish Immigration Service on 25 April and 10 November 2014, the author stated that, inter alia, he sympathized with and supported the Muslim Brotherhood, but had not carried out any activities for them; he had not participated in any political activities in Egypt; he did not perform the military service because he had to provide for his family and the salary was insufficient, and because the military did not help

[1] See also para. 4.5 below.

people; and no one from the authorities had looked for him between 2005 and 2008 after he failed to show up for military service. Asked why he would be imprisoned if that was the case when he was detained in 2008, he replied that, after the revolution in 2011, the situation became different and the authorities had everyone do military service. The author also submitted that he had participated in a Facebook group, in which it appeared that he supported former President Mohamed Mursi and the Muslim Brotherhood. To log in, he used the name F.Z. Asked how the Egyptian authorities would know that the account belonged to him, he replied that his photo appeared in the profile. However, he explained that his real name did not appear in any part of the profile as a safety precaution. Likewise, his real name did not appear in his Twitter account.

2.8 As requested, on 26 August 2014, the Danish Ministry of Foreign Affairs provided the Immigration Service with a memorandum on punishment of draft evaders in Egypt.[2] It stated that it was not possible for draft evaders to leave the country legally, since no male over the age of 18 would be issued a passport or permitted to leave the country without a certificate from the military granting permission to leave the country while drafted or granting an exemption from military service. The memorandum also stated that the penalty for evasion of conscription depended on the situation and on the age of the person. Notably, if the draft evader was over the age of 30 and simply did not show up for the medical examination or did not submit his papers to confirm his military status upon turning 18, he would have to stand trial in a military court and, if found guilty, would be punished by a minimum of two years in prison or a fine of between 2,000 and 5,000 Egyptian pounds or both penalties. According to the Military Prosecutor, the common practice in such cases is to hold a quick hearing session in a military court and impose a fine, but not a prison sentence. There is a provision in the Military Conscription Law No. 127 of 1980 specifically addressing leaving the country to avoid conscription. However, article 54 of the Law addresses all other violations and imposes a penalty of no less than two years in prison or a fine between 2,000 and 5,000 Egyptian pounds or both penalties. Since it was not possible to leave the country without submitting the relevant military documents, avoiding conscription in that manner would fall under "other violations" and would be punishable under article 54 of the Law or under stricter provisions in the Penal Code for civilians if the Military Prosecutor seeks the assistance of the General Prosecutor. If a draft evader left the country without presenting his military service documentation, he would be placed on the "wanted list" of the Egyptian authorities. He would then be subject to articles 50 or 54 of the Law or to stricter penalties under the Penal Code if the Military Prosecutor sought the assistance of the General Prosecutor. According to the Military Prosecutor's Office, if a draft evader left Egypt, re-entered the country and was requested to contact the conscription office, then left the country again without doing so, he would be considered a repeat draft evader and subject to no less than seven years' imprisonment under article 50 of the Military Conscription Law. However, the Military Prosecutor could seek the assistance of the General Prosecutor in such cases, and the draft evader would be classified as "wanted" by the authorities and a "stricter" penalty could be applied in accordance with the Penal Code. The penalty for draft evasion is normally enforced.

2.9 On 22 December 2014, the Danish Immigration Service dismissed the author's request for asylum. Although it accepted the author's explanation about his asylum motive, it did not find it probable that, if he returned to Egypt, he would be in a concrete and individual conflict with the Egyptian authorities. It noted that according to the author's own accounts he had not been contacted by the authorities to do his military service between 2005 and 2008, prior to his departure from Egypt, nor had he been punished for his military evasion or illegal departure when he returned to Egypt in 2008, and he was able to get a new passport from the Egyptian embassy in Rome in 2012. In addition, even if the author would be punished for military evasion upon return to Egypt, the Immigration Service did not find that the possible imprisonment penalty to be disproportionally severe. The Immigration Service stated that the author's support for former President Mohammed Mursi and the Muslim Brotherhood on Facebook and Twitter since 2011 could not, in itself, lead to a different assessment because it was not plausible that the Egyptian authorities were aware of those profiles and who was behind them, since the profiles were created

[2] The case file contains a copy of the memorandum.

under a different name and contained few pictures of the author. The Immigration Service referred the author's case to the Refugee Appeals Board for the final decision, in accordance to section 53 (a) (2) of the Danish Aliens Act.

2.10 On 28 April 2015, the Refugee Appeals Board rejected the author's request for asylum. It found that the author had not rendered it probable in a credible manner that the Egyptian authorities would pursue him because of his draft evasion, as established in the decision of the Danish Immigration Service. The Board noted that the author had not been a member of any political or religious association or organization, nor had he been politically active in any other way; and that there had not been any inquiries from the military to his family who still lived in Egypt. With regard to the credibility assessment of the author, the Board attached importance to the fact that the author had previously entered Denmark, stated that he was a stateless Palestinian, and submitted a very different asylum request. Against that background, the Board concluded that the author had not rendered it probable that his latest allegedly illegal departure and his alleged inconspicuous support for the Muslim Brotherhood might independently cause him to be subjected to persecution or abuse so as to justify asylum under section 7 (1) or (2) of the Aliens Act. The author claims that he has exhausted all domestic remedies.

The complaint

3.1 The author claims that Denmark would violate its obligations under article 7 of the Covenant by deporting him to Egypt where he would be exposed to at least seven years of imprisonment and torture or cruel, inhuman or degrading treatment or punishment in prison.[3] He claims that the Danish Refugee Appeals Board considered that he had failed to render probable in a credible manner that the Egyptian authorities would persecute him if he returned, but did not explain in detail the basis for its findings.

3.2 The author points out that he did not claim that avoiding the military service in itself had consequences on him other than on the two occasions when he was detained by the police. However, since he left the country illegally twice, he would be considered a "repeat draft evader" and sentenced to at least seven years in prison for draft evasion.[4] He claims that, although the Board's findings that one would not be at risk of persecution by the mere fact of being an ordinary supporter of the Muslim Brotherhood are correct, in his case it should be considered in the context of his being a draft evader and his opposition to President Abdel Fattah al-Sisi, which would result in persecution by the authorities.

3.3 He states that reports by States and well-known non-governmental organizations (NGOs) indicate that prison conditions in Egypt are harsh and can be life threatening, with overcrowding, poor sanitation, a lack of health care and generally unhealthy conditions being particular problems.[5] In addition, the human rights situation in Egypt has deteriorated since 2015 after President Al-Sisi's administration came to power.

3.4 In assessing the credibility in his asylum request, the Refugee Appeals Board took into account the information that he had provided in his first request under a different name. In that connection, the author submits that since he had acknowledged that he provided a false identity and false information in his first asylum request in Denmark and explained to the Danish authorities why he had done so, the Board should not have taken that information into account in its decision of 28 April 2015.

[3] The author refers to, inter alia, Office of the United Nations High Commissioner for Refugees (UNHCR), *Guidelines on International Protection No. 10: Claims to Refugee Status related to Military Service within the context of Article 1A (2) of the 1951 Convention and/or the 1967 Protocol relating to the Status of Refugees* (12 November 2014); United Kingdom: Home Office, *Operational Guidance Note: Egypt* (October 2014); and Human Rights Watch, "Egypt: Rash of deaths in custody" (21 January 2015).

[4] The author refers to the memorandum from the Danish Ministry of Foreign Affairs (see para. 2.8 above).

[5] See footnote 3.

State party's observations on admissibility and the merits

4.1 On 20 November 2015, the State party submitted its observations on the admissibility and merits of the communication. The State party considers that the author failed to establish a prima facie case for the admissibility of his allegations under article 7 of the Covenant. It stated that there were no substantial grounds for believing that he risked being subjected to torture or cruel, inhuman or degrading treatment if returned to Egypt, therefore the communication was manifestly ill-founded and should be declared inadmissible. Should the Committee consider the author's allegations admissible, the State party maintains that article 7 of the Covenant would not be violated if he is returned to Egypt.

4.2 The State party provided a detailed description of the asylum proceedings under the Aliens Act and of the organization and competence of the Refugee Appeals Board.[6] Decisions of the Board are based on an individual and specific assessment of the relevant case. The asylum seeker's statements regarding his or her grounds for seeking asylum are assessed in the light of all relevant evidence, including what is known about conditions in the country of origin (background material). The Board is responsible not only for examining and bringing out information on the specific facts of the case, but also for providing necessary background material, including information on the situation in the asylum seeker's country of origin or first country of asylum.[7]

4.3 The author did not produce any essential new information about his case before the Committee, beyond that already relied upon in connection with his asylum proceedings in Denmark. The State party considers that the information provided was already thoroughly reviewed by the Refugee Appeals Board in its decision of 28 April 2015. In addition to other information on the situation in Egypt, the memorandum of 26 August 2014 on punishment imposed on draft evaders in Egypt, prepared by the Ministry of Foreign Affairs of Denmark, as requested by the Danish Immigration Service, was taken into account in the decision of the Immigration Service and the Board on 20 December 2014 and 28 April 2015, respectively.

4.4 The State party notes that the Refugee Appeals Board found that the author had not rendered his allegations probable in a credible manner that the Egyptian authorities would pursue him because of his draft evasion. The Board observed in that respect that, according to his own statement, he registered in the summer of 2005 for compulsory military service, in accordance with his age at the time; he was subsequently in contact with the Egyptian authorities in 2007 and 2008 — in the latter case, in connection with his return after his illegal departure, without there being any real consequences of his alleged draft evasion; and the military had never contacted his family to look for him. In its credibility assessment, the Board gave some weight to the fact that the author had previously entered Denmark on 19 December 2010, given a different name, stated that he was a stateless Palestinian from Gaza and put forward very different grounds for seeking asylum.

4.5 The State party informs the Committee that, in his first asylum application, the author referred to the general situation in Gaza, including the situation of stateless Palestinians, the tensions between Fatah and Hamas and his parents' poor treatment of him, in comparison with his brothers. At the screening interview on 6 January 2014, after his second arrival in Denmark, he stated that the reason why he provided false information about his identity and grounds for asylum in his first asylum application in Denmark was because he was scared and did not want to be returned to Egypt. He also stated that everything he had previously said was a lie. He said that he came back to Denmark from Switzerland because he was told that he would not have any problems applying for asylum in Denmark due to his previous lies. In that connection, the State party maintains that the author failed to give a reasonable explanation as to why he provided false information about his identity and grounds for asylum in the first application, and that generally weakened his credibility.

[6] See communication No. 2379/2014, *Hussein Ahmed et al. v. Denmark*, Views adopted on 7 July 2016, paras. 4.1-4.3.

[7] The State party indicates that background material on Egypt available to the Refugee Appeals Board can be found at www.fln.dk/da/baggrundsmateriale.

4.6 The State party summarizes the author's statements concerning his compulsory military service in the interviews with the Danish Immigration Service (see para. 2.7 above) and maintains that, based on the author's accounts, the Refugee Appeals Board found that he was not "wanted" by the Egyptian authorities and that his evasion of military service has had no real consequences for him. The author had also stated during the asylum proceedings that he had not experienced any problems obtaining a passport in 2008, nor had he experienced any problems obtaining a new passport from the Egyptian embassy in Rome in 2012. He had further stated, on the one hand, that the Egyptian embassy in Rome was not aware that he was not allowed to use his passport to leave the country and, on the other hand, that the embassy had indicated "Conscript situation. Draft age" in his passport. At the oral hearing before the Refugee Appeals Board, the author was asked about his statement to the Swiss authorities that a passport had been issued to him in 2005 and that it was valid for two months because he was to perform compulsory military service. The author responded that passports had been issued to him in 2005 and 2008 and confirmed that the passport issued in 2005 had been valid for two months. When asked whether the passport issued to him in 2012 also had a brief period of validity because he was to perform compulsory military service, the author responded in the affirmative and stated that the normal validity of a passport was seven years, but that it appeared from page 4 or 5 of the passport issued in 2005 that it was valid for two months. In the new passport, the period of validity was given as either one or seven years. When asked how a passport with a normal period of validity could be issued to him in 2012, when that had not been possible in 2005, the author replied that the validity was the same. The author later stated that the passport issued in 2008 had a period of validity of seven years, it also had a stamp and it was written by hand that he was not allowed to leave the country without a permit. When asked whether the passport issued in 2005 had a normal period of validity, the author replied that he did not recall. Against that background, the Refugee Appeals Board found that the author had failed to render it probable in a credible manner that the Egyptian authorities were pursuing or would pursue him because of his draft evasion. The State party notes that, at the hearing before the Refugee Appeals Board on 28 April 2015, the author stated that he had had various small jobs in Cairo from 2005 to 2008, and that it appears from the case file that the author did not try to hide from the authorities between 2005 and 2008, the period during which he allegedly evaded military service.

4.7 The State party maintains that, according to the memorandum, the punishment for evading compulsory military service in Egypt depends on the situation and the relevant person's age (see para. 2.7 above). It also appears from the memorandum that, in practice, persons who have not registered for compulsory military service and are not otherwise wanted by the military will receive considerably more lenient sentences than persons who are wanted by the military or persons who have forged documents. In that framework, persons older than 30 years of age who have not registered for compulsory military service but are not otherwise reported as wanted by the military will be sentenced under article 49 of the Military Conscription Law and, in most cases, if they are found guilty, the punishment will be a fine of 2,000 to 5,000 Egyptian pounds, but not imprisonment. Therefore, if the author is 30 years upon his return to Egypt, he will probably only be fined 2,000 to 5,000 Egyptian pounds. The State party also maintains that the consequences described for failure to register for compulsory military service in due time are not disproportionate relative to Danish legal tradition. That Egyptian legislation provides for long-term prison sentences — a provision that is seldom used — and that such prison sentence might have to be served under conditions that are contrary to article 7 of the Covenant could lead to a different assessment of the case by the State party because the author has failed to render it probable that he, in particular, would be at a special risk of receiving such a sentence.

4.8 The State party notes that, in the interviews with the Danish Immigration Service on 6 January, 25 April and 10 November 2014, the author stated that he sympathized with the Muslim Brotherhood and that he supported former Egyptian President Mohamed Mursi, but that he was not registered as a member of the Muslim Brotherhood, nor had he personally performed any activities for the Muslim Brotherhood or in support of former President Mursi. The author also stated that he had not experienced any conflicts at any time in Egypt due to his political conviction. Accordingly, the Refugee Appeals Board found that he had

not attracted attention to himself because of his alleged sympathy and support for the Muslim Brotherhood and that he had not performed any activities for the Muslim Brotherhood of a nature likely to make him a subject of interest to the Egyptian authorities. The State party also notes that, in the country information and guidance on the Muslim Brotherhood in Egypt, issued by the United Kingdom Home Office and updated on 30 September 2014, it is stated that, although the Government of Egypt is able, under Egyptian law, "to detain anyone suspected of membership of the Muslim Brotherhood, arrests and detentions have primarily been of high and mid-level leaders and those taking part in protests against the government which have become violent". The report also states that, given the sheer scale of the number of members and supporters, the Government is unlikely to have the capacity, capability or interest in seeking to persecute everyone associated with the Muslim Brotherhood. It further states that there is no evidence to suggest that merely being a member of, or, in particular, a supporter of the Muslim Brotherhood will put a person at risk of persecution. Against that background, the Refugee Appeals Board found that the author's sympathy and support for the Muslim Brotherhood did not independently entail that he would risk persecution or abuse if returned to Egypt to justify asylum in Denmark under section 7 (1) or (2) of the Aliens Act. The changed situation in Egypt resulting from the events in 2012 and 2013 relating to the presidential elections and subsequent removal of President Mursi could not lead to a different assessment of the case either.

4.9 The author's communication to the Committee merely reflects that he disagrees with the credibility assessment made by the Refugee Appeals Board in his case. It does not identify any irregularities in the decision-making process or any risk factors that the Board failed to take properly into account. Accordingly, the State party maintains that the author is trying to use the Committee as an appellate body to have the factual circumstances advocated in support of his claim for asylum reassessed by the Committee. However, the Committee must give considerable weight to the findings of the Danish Refugee Appeals Board, which is better placed to assess the findings of fact in the author's case.

Author's comments on the State party's observations

5.1 On 23 January 2017, the author submitted his comments on the State party's observations and reiterated his previous claim that the Refugee Appeals Board's decision of 28 April 2015 arbitrarily dismissed his asylum request and that his removal to Egypt would constitute a violation of article 7 of the Covenant.

5.2 The author maintains that the State party has misinterpreted the memorandum, in particular concerning the fact that upon return to Egypt, he will be subject to seven years' imprisonment or more. The State party's observations are based on the assumption that he is not "wanted" by the Egyptian authorities and omits parts of the memorandum that are relevant to his case. Notably, the memorandum states that a draft evader who left Egypt twice would be considered a repeat draft evader and subject to no less than seven years imprisonment under article 50 of the Military Conscription Law. However, the Military Prosecutor could also seek the assistance of the General Prosecutor in such cases, since the draft evader would be classified as "wanted" by the authorities and a stricter penalty could apply in accordance with the Penal Code. He claims that this would be the case even if the draft evader was 30 years old or more and that the penalty for draft evasion was normally enforced.

5.3 The fact that, in 2007 and 2008, the Egyptian authorities detained and subsequently released him without consequences and the Egyptian embassy in Rome issued a passport in the author's name in 2012, does not mean that he is not "wanted" by the authorities today. The author highlights that he should be considered as "wanted" by the Egyptian authorities mainly because he did not show up for his military service and he left the country twice illegally, even though upon his return the last time, the authorities had told him to report to the conscription office.

5.4 The author alleges that, although he is not a prominent supporter or member of the Muslim Brotherhood, he could easily be identified as a member or supporter of the organization since he is from Al-Fayyum, a city where the Muslim Brotherhood has strong support. In that connection, he submits that the assessment of the risk he would face in

Egypt should not consider his support for the Muslim Brotherhood separately, but in conjunction with his situation as a draft evader who strongly opposes President Al-Sisi. The author also submits that the human rights situation and the prison conditions in Egypt have continued deteriorating.[8]

Issues and proceedings before the Committee

Consideration of admissibility

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with article 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

6.2 As required under article 5 (2) (a) of the Optional Protocol, the Committee has ascertained that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee notes the author's claim that he has exhausted all effective domestic remedies available to him. In the absence of any objection by the State party in that connection, the Committee considers that the requirements of article 5 (2) (b) of the Optional Protocol have been met.

6.4 The Committee notes the State party's challenge to the admissibility of the communication on the ground that the author's claim under article 7 of the Covenant is unsubstantiated. The Committee however considers that the author has raised numerous risk factors, which, cumulatively, sufficiently substantiated his claims for the purposes of admissibility. Accordingly, the Committee declares the communication admissible and proceeds with its consideration of the merits.

Consideration of the merits

7.1 The Committee has considered the communication in the light of all the information made available to it by the parties, in accordance with article 5 (1) of the Optional Protocol.

7.2 The Committee notes the author's allegations that his deportation to Egypt by the State party would constitute a violation of article 7 of the Covenant since he will be considered a repeat draft evader in his country of origin. He will therefore be subjected to a disproportionate sentence of at least seven years' imprisonment under severe prison conditions and ill-treatment. The Committee also notes the State party's arguments that the Danish Immigration Service and the Refugee Appeals Board thoroughly reviewed the allegations and documentation contained in the author's communication and concluded that he was not in need of asylum or international protection.

7.3 The Committee recalls its general comment No. 31, in which it refers to the obligation of States parties not to extradite, deport, expel or otherwise remove a person from their territory when there are substantial grounds for believing that there is a real risk of irreparable harm such as that contemplated by articles 6 and 7 of the Covenant.[9] The Committee has indicated in its jurisprudence that the risk must be personal[10] and that there is a high threshold for providing substantial grounds to establish that a real risk of irreparable harm exists.[11] Thus, all relevant facts and circumstances must be considered,

[8] The author refers to *Amnesty International Report 2015/16 — Egypt*; 2017 Human Rights Watch, *World Report 2017 — Egypt*; and Cairo Institute for Human Rights Studies, *Annual Report 2016*.

[9] See the Committee's general comment No. 31 (2004) on the nature of the general legal obligation imposed on States parties to the Covenant, para. 12.

[10] See communications No. 2007/2010, *X v. Denmark*, Views adopted on 26 March 2014, para. 9.2; No. 282/2005, *S.P.A. v. Canada*, decision adopted on 7 November 2006; No. 333/2007, *T.I. v. Canada*, decision adopted on 15 November 2010; No. 344/2008, *A.M.A. v. Switzerland*, decision adopted on 12 November 2010; and No. 692/1996, *A.R.J. v. Australia*, Views adopted on 28 July 1997, para. 6.6.

[11] See communications No. 2007/2010, *X v. Denmark*, para. 9.2; and No. 1833/2008, *X. v. Sweden*, Views adopted on 1 November 2011, para. 5.18.

including the general human rights situation in the author's country of origin.[12] The Committee recalls its jurisprudence in which it has stated that considerable weight should be given to the assessment conducted by the State party, and that it is generally for the organs of States parties to the Covenant to review or evaluate the facts and evidence of the case in order to determine whether such a risk exists, unless it can be established that the evaluation was clearly arbitrary or amounted to a manifest error or denial of justice.[13]

7.4 In the present case, the Committee observes that the author does not claim that he needs international protection because he did not perform compulsory military service in Egypt due to reasons of conscience. Rather, he mainly alleges that since he is a draft evader who left Egypt twice illegally, he would be classified as "wanted" by the Egyptian authorities and subjected to no less than seven years' imprisonment under article 50 of the Military Conscription Law, as confirmed in the memorandum provided by the Danish Ministry of Foreign Affairs. According to the author, in order to determine the risk of harm that he would face in Egypt, his situation as repeat draft evader should be assessed together with his support for the Muslim Brotherhood, his opposition to President Al-Sisi and prison conditions in Egypt.

7.5 The Committee notes that the penalties imposed on a repeat draft evader in Egypt, as stated in the memorandum provided by the Danish Ministry of Foreign Affairs, are lengthy, and that reports referred to by the parties,[14] indicate that prison conditions are very harsh in Egypt; inmates are subjected to severe abuses by the authorities, including torture and enforced disappearance, as is particularly the case of members or supporters of the Muslim Brotherhood; and impunity for serious abuses remains in place. In the case at hand, however, the Committee observes that the author's alleged support for the Muslim Brotherhood and former President Mursi is limited to opinions on Facebook and Twitter accounts that are not under his name. According to his own statements, he is not a member of the Muslim Brotherhood and has not personally carried out any activities in Egypt for the organization or in support of former President Mursi. Furthermore, he has not been a member of any political or religious association or organization. The Committee also observes that, although the author failed to perform his military service in 2005, he did not encounter problems with the authorities between 2005 and 2008. In that period, he was detained twice and subsequently released by the Egyptian authorities. Both times, the authorities were aware of his failure to perform military service and there were no consequences even though the latter case was related to his return after an illegal departure from Egypt. In 2012, after his second departure from Egypt, the author approached the Egyptian embassy in Rome and was able to obtain a passport without any problem. During all this time, the military did not make any inquiries about the author to his family in Egypt. Against that background, the Danish Immigration Service and the Refugee Appeals Board dismissed the author's request for asylum since they found that he had not rendered it probable in a credible fashion that, if returned to Egypt, the Egyptian authorities would persecute him and subject him to treatment contrary to article 7 of the Covenant due to his draft evasion and alleged support for the Muslim Brotherhood. In examining the author's asylum request, the authorities reviewed his allegations, taking into due consideration reports from States, non-governmental organizations and international organizations about the human rights situation in Egypt, as well as the memorandum provided by the Ministry of Foreign Affairs on the punishment of draft evaders in Egypt. They also noted the false claims made by the author in previous asylum proceedings, which detracted from his credibility. While the author disagrees with those decisions, he has not convincingly explained why he might be targeted by the Egyptian authorities due to his situation as a draft evader or why he might be perceived as a supporter of the Muslim Brotherhood. The author has also not explained why the decisions of the Danish Immigration Service and the Refugee Appeals Board are clearly arbitrary or manifestly unreasonable, for instance, owing to their failure to take properly into account a relevant risk factor. Accordingly, the

[12] See communications No. 2007/2010, *X v. Denmark*, para. 9.2; and No. 1833/2008, *X. v. Sweden*, Views adopted on 1 November 2011, para. 5.18.

[13] See, inter alia, communications No. 2393/2014, *K. v. Denmark*, Views adopted on 16 July 2015, para. 7.4; and No. 1957/2010, *Z.H. v. Australia*, Views adopted on 21 March 2013, para. 9.3.

[14] See footnotes 3 and 8 above.

Committee cannot conclude that the removal of the author to Egypt would constitute a violation of article 7 of the Covenant.

8. The Committee, acting under article 5 (4) of the Optional Protocol, is of the view that the author's removal to Egypt would not violate his rights under article 7 of the Covenant.